

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

MICHAEL P. AND SHELLIE GILMOR,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 4:10-CV-00189-ODS
)	
PREFERRED CREDIT CORPORATION,)	
et al.,)	
)	
Defendants.)	

**UNOPPOSED MOTION OF LITTON LOAN SERVICING, L.P.
AND JP MORGAN CHASE BANK, NATIONAL ASSOCIATION
AS FORMER TRUSTEE, FOR LEAVE TO FILE
SUGGESTIONS IN SUPPORT OF MOTION TO DECERTIFY CLASS
IN EXCESS OF PAGE LIMITATION**

Defendants Litton Loan Servicing, L.P. (“Litton”) and JP Morgan Chase Bank, National Association (“JPMC”), as former trustee, respectfully move this Court for leave to file Suggestions in Support of Motion to Decertify Class in excess of the page limit set forth in Local Rule 7.0(f). In support of this request, which is unopposed, Litton and JPMC state as follows:

1. Local Rule 7.0(f) permits a party to file suggestions in opposition to motions in excess of fifteen pages with “permission of the Court.” Pursuant to that Rule, Litton and JPMC seek leave to file Suggestions in Support of Motion to Decertify Class (“Suggestions”) in excess of the fifteen (15) page limit contained in Local Rule 7.0(f).

2. Litton and JPMC submit that good cause exists for this request. With respect to a motion to decertify class, both the parties and the Court must engage in a “rigorous analysis” of each of the Rule 23 requirements. *Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541, 2551 (2011). This is because “[i]n considering a defendant’s motion for decertification, [a] court follows the legal standard required for class certification.” *East Main Baptist Church v. Union Planters*

Bank, N.A., 244 F.R.D. 538, 541 (E.D. Mo. 2007). Litton and JPMC are therefore required to address in its Suggestions, under Rule 23(a), whether the Plaintiffs will adequately represent the class; whether there are common issues; and whether Plaintiffs' personal claims are typical of those class members whom they seek to represent. Under Rule 23(b)(3), Litton and JPMC's Suggestions also must separately address whether "questions of law or fact common to the members of the class predominate over any questions affecting only individual members," and also whether "a class action is superior to other available methods for the fair and efficient adjudication of the controversy."

3. Each of these factors presents multiple sub-issues. Under the predominance requirement of Rule 23(b)(3), for example, Litton and JPMC must address in their Suggestions whether Plaintiffs have demonstrated that common class-wide evidence exists that could be presented at trial as to the claims of all class members, or whether the evidence as to each class member is individualized. This determination will, in turn, require an examination in the Suggestions of the claims that Plaintiffs' have advanced, their various requests for relief, and the likely defenses that Litton and JPMC will assert to class members' claims.

4. There are additional issues, unique to this lawsuit, which Litton and JPMC plan to address in its Suggestions. For example, Plaintiffs have requested significant damages against Litton and JPMC in this class action, including punitive damages, which raise additional individualized inquiries.

5. Litton and JPMC accordingly request leave to file Suggestions in Support of Motion to Decertify Class that do not exceed twenty-five (25) pages in length. Litton and JPMC are still in the process of preparing their Suggestions, and their brief may be shorter than the twenty-five (25) pages which they have requested.

6. This motion is not made for the purpose of delay or harassment, and no party will be prejudiced if the motion is granted.

7. Litton and JPMC have contacted counsel for Plaintiffs, who do not oppose the requested relief.

WHEREFORE, Litton and JPMC respectfully request the Court grant them leave to file Suggestions in Support of Motion to Decertify Class of up to twenty-five (25) pages in length.

Respectfully submitted,

/s/ Mark A. Olthoff

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing document was filed electronically with the above-captioned court, with notice of case activity to be generated and sent electronically by the Clerk of said court (with a copy to be mailed to any individuals who do not receive electronic notice from the Clerk) this 27th day of April, 2012, to all counsel of record.

/s/ Mark A. Olthoff

Attorney for Defendants